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2. The Alaska Native Tribal Health Consortium (ANTHC) and the South Central Foundation are health organizations established under the Indian Self-Determination and Educational Assistance Act, as tribal health consortiums serving Alaska Natives in Alaska.

3. The ANTHC and the South Central Foundation jointly own and manage the Alaska Native Medical Center (ANMC).

4. ANMC is staffed by employees, contractors and/or agents, all of whom were acting in their scope of employment at the time of the events described herein.

5. Any civil action against a tribal organization, or one of its employees acting within the scope of employment, for tort claims resulting from the carrying out of an Indian Self-Determination and Educational Assistance Act ("ISDEA") contract "shall be deemed to be an action against the United States" under the FTCA, Department of the Interior and Related Agencies Appropriations Act of 1991, Pub. L. No. 101- 512, Title III, § 314, 104 Stat. 1915, 1959 (Nov. 5, 1990) (codified as amended at 25 U.S.C. § 450fnote) [hereinafter Section 314].

6. Plaintiff previously filed an administrative claim with the Indian Health Service alleging the wrongful death her husband due to negligence of staff members of ANMC in a timely manner on 8/5/11, which was denied on 2/19/13, thus Plaintiff has exhausted her administrative remedies.

7. This suit is filed less than 6 months from the denial of that administrative claim, and thus is timely filed.

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8. This Court has jurisdiction over this Complaint pursuant to 28 U.S.C. § 1346, 2401, and 2671 et seq. (FTCA) and 25 U.S.C. § 450f.

ALLEGATIONS OF NEGLIGENCE
(Breach of the Standard of Care)

9. Plaintiff re-alleges the allegations stated in Paragraphs 1-8 above.

10. On 9/12/08 Kevin Kaiakokonok, was referred to the Cardiology Clinic at ANMC by PAC Rebecca Moore. He was seen by Peter Sapin, M.D. and a copy of the cardiology note was sent to Sandra Lohse, M.D. . At the time the patient was complaining of atypical, left sided chest pains associated with sweating and weakness. His work up did not disclose an explanation for those pains. Inexplicably, no chest x-ray, or CT scan was ordered, which was below the standard of care for this long term smoker. 15 months later after the patient's symptoms worsened a chest x-ray taken at that time revealed stage IV lung cancer which had metastasized to the liver, pleural lining of lung and compressed central structures in left upper lobe and lingular regions of the left lung. Had a chest x-ray and/or CT scan of the patient's lungs been performed as called for by the patient's symptoms and the applicable standard of care, 15 months earlier, the lung cancer would have been detected at an earlier treatable stage with a much higher survival rate.

11. PAC Rebecca Moore, Peter Sapin, M.D. and Sandra Lohse, M.D. were all employees of contractors working for ANMC at the relevant time. They individually and or jointly acted below the applicable standard of care and were the proximate cause of the

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untimely demise of the Plaintiff's decedent. The Defendant is therefore responsible for their actions and the damages that were caused as a result thereof.

12. Alternatively, employees, agents and/or contractors employed at ANMC, who may be discovered through further discovery in this matter, were negligent and the legal and proximate cause of Plaintiff's decedent's death.

13. As a legal and proximate result of the breach of the applicable standard of care by employees and/or contractors employed at ANMC, Kevin Kaikokonok suffered and died of lung cancer which could have been otherwise treated and retarded or cured.

14. As a legal and proximate result of the breach of the applicable standard of care by employees and/or contractors employed at ANMC, Plaintiff's decedent's wife and four children suffered a loss of his love, care, advice, companionship, and financial support, in an amount to be proven at trial but in any case to exceed the jurisdictional requirements of this court.

15. As a legal result and proximate result of the breach of the standard of care of ANMC employees, agents and/or contractors, Plaintiff is entitled to recover as just compensation from the Defendant, all amounts and damages which are provided for under AS 09.55.570 and AS 09.55.580, in an amount to be proven at trial but in any case to exceed the jurisdictional requirements of this court.

16. The Alaska Native Tribal Health Consortium (ANTHC) and the South

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Central Foundation and ANMC are vicariously liable for the negligent conduct complained of in this Complaint.

17. The United States of America is legally responsible to pay any and all damages awarded in this case, due to the direct or vicarious negligence of employees and contractors employed by ANMC, and/or Alaska Native Tribal Health Consortium (ANTHC) and the South Central Foundation and ANMC, pursuant to the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1346, 2401, and 2671 et seq. and 25 U.S.C. § 450f.

DAMAGES

18 Plaintiff re-alleges the allegations stated in Paragraphs 1-17 above.

19. As a proximate result of the combined negligence of the employees, agents and/or contractors employed by ANTHC, South Central Foundation and ANMC, Plaintiff requests award of the following damages.

- a. past medical expenses, related to the breach of the standard of care described above;
- b. pain and suffering of the decedent before he expired;
- c. funeral and burial expenses;
- d. grief, loss of companionship, support, love and affection;
- e. any other damages permitted under AS 09.55.570 & 580.

WHEREFORE, plaintiff, prays for an award of damages as follows:

1. past medical expenses;

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2. pain and suffering of the decedent before he expired;
3. funeral and burial expenses;
4. grief, loss of companionship, support, love and affection;
5. any other damages permitted under AS 09.55.570 & 580.
6. Prejudgment Interest, Attorneys Fees and Costs;
7. Such other relief as the Court finds just.

DATED this 26th day of July, 2013, at Anchorage, Alaska.

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